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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,838	02/11/2004	Scott McIntosh	04790.002	3031

7590 04/27/2007
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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/776,838

Applicant(s)

MCLNTOSH, SCOTT

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-25 and 34-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33 is/are allowed.
- 6) ☒ Claim(s) 26-30 and 32 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on 01/31/07.

Claim Objections

2. Claim 26 is objected to because of the following informalities: manipuable (see line 2). Appropriate correction is required.
3. Claim 32 is objected to because of the following informalities: [said battery] needs to be change to --a battery--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Banion (6,829,830 B2).

O'Banion discloses the invention as claimed including:

- Claim 26; a hand-held power band saw (see Fig. 1), a closed loop saw blade 6, a generally planar frame 12 having a first end and a second end (see Fig. 1), a throat (see Fig. 2) intermediate the first and second ends, a first wheel 20, a drive assembly 16, a second wheel 18 and a handle 14 having a grip portion extending

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longitudinal with respect to the frame between the axes and generally opposite the throat (see Fig. 2, the horizontal portion of the handle 14).

- Claim 28; a fence 112.
- Claim 29, a skirt 12 (see Fig. 2).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Banion (6,829,830 B2) in view of Dean (6,442,848 B1).

O'Banion discloses the invention substantially as claimed including:

- Claim 30; wherein the frame is fixed at a predetermined angle relative to the handle (see Fig. 2 and 12).

O'Banion doesn't show first and second blade guides. However, Dean teaches the use of first and second blade guides (70a-B and 72A-B) for the purpose of constraining the blade along a predefined path for better orientation of the blade. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified O'Banion's device by providing the first and second blade guides as taught by Dean in order to obtain a device that constrains the blade along a predefined path for better orientation of the blade.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Banion (6,829,830 B2) in view of Dean (6,442,848 B1) and Judge (6,523,447).

O'Banion discloses the invention substantially as claimed except for a battery. However, Dean teaches the use of a battery 160 for the purpose of providing maximum flexibility to the operator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified O'Banion's device by providing the battery as taught by Dean in order to obtain a device that provides maximum flexibility to the operator.

The modified device of O'Banion discloses the invention substantially as claimed except for a battery having a chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium and lead-acid. However, Judge teaches the use of a chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium and lead-acid (see col. 2, lines 54-59) for the purpose of supporting the high current and high power requirement needed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of O'Banion by providing the chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium and lead-acid as taught by Judge in order to obtain a device that supports the high current and high power requirement needed for a band saw.

Allowable Subject Matter

9. Claim 33 is allowed.

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10. Claim 31 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

Response to Arguments

11. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rentsch et al. is cited to show related device.

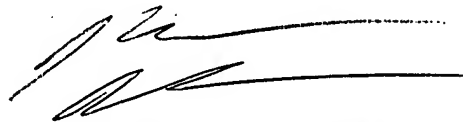
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ofs
4/16/07



KENNETH E. PETERSON
PRIMARY EXAMINER